

BY HAND DELIVERY

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Levinson et al.

Application No.: 10/004,633

Group Art Unit: 1645

Filed: December 4, 2001

Examiner: Swartz, R.

For: COMPOSITIONS AND METHODS
FOR THE TREATMENT AND
DIAGNOSIS OF IMMUNE
DISORDERS

Attorney Docket No.: 7853-251-999

PETITION UNDER TO 37 C.F.R. §1.182 AND §1.17(h)

BOX SN

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

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MAR 25 2002

OFFICE OF PETITIONS

Applicants, through their attorneys, hereby petition to the Commissioner, pursuant to Rule 182, to maintain the original December 4, 2001 filing date of the above-identified patent application upon entry of pages 58-60 into the application. This Petition is in response to the Notice of Omitted Item(s) ("Notice"), issued in connection with the instant application on January 29, 2002.

The Notice refers to missing pages 58-60. As detailed below, Applicants contend that entry of omitted pages 58-60 does not constitute the addition of new matter in light of the fact that pages 58-60 were part of a parent application which has been incorporated into the instant application by reference in its entirety. The requested relief is, therefore, proper and appropriate.

Applicants submit herewith: (1) Exhibit A, a copy of the Notice; (2) Exhibit B, a copy of pages 58-60 of the above-identified application; (3) Exhibit C, a copy of the postcard accompanying the above-identified application filed in the United States Patent and Trademark Office ("USPTO") on December 4, 2001; (4) Exhibit D, a copy of the Preliminary

Amendment with Exhibit A filed in the USPTO on December 4, 2001 as part of the above-identified application; (6) Exhibit E, copies of the Utility Patent Application Transmittal and Request For Continuation Application Under 37 C.F.R. § 1.53(b) filed in USPTO on December 4, 2001 as part of the above-identified application; and (7) an executed Declaration and Power Of Attorney.

REMARKS

The instant application is a continuation application of U.S. application Serial No. 09/324,986 (the "986 application"), filed on June 2, 1999. The Notice contends that pages 58-60 of the application were omitted from the instant application when it was filed.

First, Applicants respectfully point out that the postcard accompanying the above-identified application (a true copy of which is attached hereto as Exhibit C), which on one side had an itemized list of the papers being filed in the USPTO on December 4, 2001 under Express Mail Label No. EL 477 032 915 US, was returned to Applicants' attorneys stamped received by the USPTO on December 4, 2001. Applicants respectfully assert that the postcard stamped by the USPTO is evidence of receipt by the USPTO of all of the documents listed on the postcard, including the entire specification of the above-identified application.

Second, Applicants respectfully point out that the instant application incorporates the '986 application by reference in its entirety. Specifically, Applicants point out that a Preliminary Amendment (a true copy of which is attached hereto as Exhibit D) was filed in USPTO on December 4, 2001 as an accompanying part of the instant application. The Preliminary Amendment amended the specification to recite that the instant application is a continuation of the '986 application, filed June 9, 1999 and to incorporate the '986 application by reference in its entirety. The Utility Patent Application Transmittal Letter and Request For Continuation Application Under 37 C.F.R. § 1.53(b) (true copies of which are attached hereto as Exhibit E) filed in the USPTO on December 4, 2002 with the instant application indicated that the Preliminary Amendment was an accompanying part of the application. Rather than make any changes to the copy of the specification of the '986 application, Applicants filed a Preliminary Amendment to amend the specification to incorporate the '986 application by reference in its entirety. Moreover, the '986 application and the Preliminary Amendment are specifically referred to in the Declaration and Power Of Attorney executed by the inventors of the instant application, which is submitted herewith. Since the '986 application contained

pages 58-60, the entry of pages 58-60 into the specification of the instant application would not constitute the addition of new matter to the application under 35 USC §132. Therefore, Applicants submit herewith a copy of pages 58-60 (attached hereto as Exhibit B), and respectfully request that pages 58-60 be accorded a filing date of December 4, 2001.

Further, Applicants respectfully point out that lines 1-12 on page 58, lines 5-10 on page 60, and lines 30-37 on page 60 of the specification of the instant application are found on page 53, lines 15-26, page 53, lines 27-32 and page 53, line 37 to page 54, line 8, respectively, of the specification of U.S. application Serial No. 09/032,337, filed February 27, 1998, which is incorporated into the instant application by reference on page 1, lines 6-15 of the specification of the instant application. As such, at a minimum, this portion of the specification should be considered as part of the instant application as originally filed in the USPTO on December 4, 2001.

Pursuant to 37 C.F.R. 1.17(h), it is estimated that the fee for filing this Petition is \$130.00. Please charge the required fee to Pennie & Edmonds LLP Deposit Account No. 16-1150.

Applicants note that the fee is refundable upon receipt of a favorable decision regarding the completeness of the application. Upon receipt of such a favorable decision, Applicants respectfully request that the petition filing fee be refunded to the above-identified Deposit Account and ask that confirmation of the refund be sent to the undersigned.

For accounting purposes, a copy of this sheet is enclosed.

Respectfully submitted,

Date: March 25, 2002

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Enclosures

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